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OCCUPATIONAL LICENSES

**BEFORE THE IDAHO STATE LICENSING BOARD OF PROFESSIONAL
COUNSELORS AND MARRIAGE & FAMILY THERAPISTS**

In the Matter of the License of:

CHARLES K. BUNCH, Ph.D.,
License No. LCPC-83

Respondent.

Case No. COU-2005-1

**FINDINGS OF FACT
CONCLUSIONS OF LAW AND
RECOMMENDED ORDER**

This contested matter came before the Hearing Officer on the Complaint filed January 7, 2005 against Charles K. Bunch, Ph.D., a licensed professional counselor, license No. LCPC-83. Respondent filed his Answer on January 27, 2005, denying the allegations of the Petitioner. Michael J. Elia was duly appointed as Hearing Officer in this matter by the Board of Professional Counselors and Marriage and Family Therapists on January 10, 2005. A hearing on the Complaint was subsequently held at 9:00 a.m. on June 28, 2005 and June 29, 2005 at the offices of the Idaho State Bureau of Occupational Licenses, 1109 Main Street, Suite 220 in Boise, pursuant to notice.

Petitioner Board of Professional Counselors and Marriage and Family Therapists appeared and was represented by Stephanie Guyon, Deputy Attorney General for the State of Idaho. Respondent

Charles K. Bunch Ph.D., was present and was represented by counsel, Craig L. Meadows, with the law firm of Hawley Troxell Ennis & Hawley LLP.

I.

ISSUES PRESENTED

The issues presented in this case are as follows:

1. Whether Dr. Bunch failed to clearly explain to Karla Taylor, on behalf of her minor child all financial arrangements related to professional services, including the use of collection agencies, or legal measures for nonpayment, in violation of Idaho Code §§ 54-3407(5), IDAPA 24.15.01.350, and American Counseling Association Code of Ethics A.10.a.
2. Whether Dr. Bunch's alleged failure to obtain written acknowledgement of information disclosure from Karla Taylor, on behalf of her minor child, at the commencement of treatment constitutes a violation of the laws governing the practice of professional counseling, specifically Idaho Code §§ 54-3407(5) and 54-3410A, IDAPA 24.15.01.350, and American Counseling Association Codes of Ethics A.3.a. and B.4.a.
3. Whether Dr. Bunch alleged failure to clarify at the outset of counseling with Mr. and Mrs. Schreffler which person or persons are clients and the nature of the relationship he would have with each involved person, as well as strategies and/or resolutions of potential conflicts, constitutes a violation of the laws governing the practice of professional counseling, specifically Idaho Code §§ 54-3407(5), IDAPA 24.15.01.350, and American Counseling Association Code of Ethics A.8.
4. Whether Dr. Bunch allegedly failed to obtain a written acknowledgement of information disclosure from both Mr. and Mrs. Schreffler at the commencement of treatment, in violation of Idaho Code §§ 54-3407(5) and 54-3410A, IDAPA 24.15.01.350, and American Counseling Association Codes of Ethics A.3.a. and B.4.a.

5. Whether Dr. Bunch made a recommendation to a medical doctor that a specific medication be prescribed to a client and whether that constitutes a violation of the laws governing the practice of professional counseling, specifically Idaho Code §§ 54-3407(5), IDAPA 24.15.01.350, and American Counseling Association Code of Ethics C.2.a.

II.

SUMMARY OF THE EVIDENCE PRESENTED AT THE ADMINISTRATIVE HEARING

The evidence submitted on behalf of Petitioner consisted of:

<u>Petitioner</u> Exhibit No.	Description
Exhibit NO. 3	Explanation of Benefits from Blue Cross of Idaho to Mark Taylor. 6/28/04
Exhibit NO. 4	Notice from Intermountain Credit Services to Mark Taylor 7/2/04
Exhibit NO. 5	Letter from Mark Taylor to Whom it May Concern re collection notice 8/4/04
Exhibit NO. 6	Letter from Charles Bunch to Karla Taylor 8/7/04
Exhibit NO. 7	Letter from Dr. Bunch to Cindy Rowland 8/16/04
Exhibit NO. 8	Letter from Dr. Bunch to Cindy Rowland 8/19/04
Exhibit NO. 9	Letter from Dr. Bunch to Cindy Rowland 11/14/03
Exhibit NO. 10	Letter from Dr. Bunch to Ellen Schreffler 11/20/05
Exhibit NO. 11	Undated handwritten note from Dr. Bunch to Dr. Fender
Exhibit NO. 12	Unsigned/undated forms
Exhibit NO. 13	Letter from Steven Filer to Cindy Rowland (as redacted 8/13/04)

Witness and testimony submitted on behalf of the Petitioner included the live testimony of Kara Taylor, Cindy Rowland, and Steven Filer, Ph.D.

Evidence submitted on behalf of Respondent consisted of:

Exhibit No.	Description
Exhibit 11A	Note from Dr. Bunch to Karla Taylor re missed meeting & next appointment.
Exhibit 12A	Document from Dr. Bunch to Karla Taylor after first meeting in April 2004
Exhibit 27A	Check from Dr. Bunch to Karla Taylor in amount of \$222.63
Exhibit 34A	Check from Karla Taylor to Dr. Bunch in amount of \$110.00
Exhibit E1	Letter from Cindy Rowland to Dr. Bunch dated July 30, 2004
Exhibit E2	Letter from Taylors to Cindy Rowland re Taylor complaint
Exhibit E6	Letter from Cindy Rowland to Dr. Bunch dated August 16, 2004
Exhibit E7	Document from Karla Taylor to Cindy Rowland dated September 16, 2003
Exhibit G1	Letter from Ellen Schreffler to Cindy Rowland dated September 16, 2003
Exhibit H	Copy of complaint from Ellen Schreffler to Board
Exhibit N	Unsigned/undated forms (same as Exhibit 12)
Exhibit E3	Note from Dr. Bunch to Karla Taylor
Exhibit E4	Letter from Dr. Bunch to Cindy Rowland dated August 7, 2004
Exhibit E5	Letter from Dr. Bunch to Cindy Rowland dated April 7, 2004
Exhibit 44A	Letter from Dr. Bunch to Cindy Rowland dated December 12, 2003
Exhibit B	Letter from Dr. Bunch to Cindy Rowland dated September 19, 2004
Exhibit C	Document from Dr. Bunch to Cindy Rowland
Exhibit D	Document from Dr. Bunch to Cindy Rowland
Exhibit K	Information packet
Exhibit 28A	Computation of refund from Dr. Bunch to Karla Taylor
Exhibit 15	ADA Code of Ethics on Web site

Witness and testimony submitted on behalf of the Respondent include Charles K. Bunch, Ph.D. and Fred Schreffler.

WHEREAS, the hearing officer having reviewed the allegations made by the board in this Complaint, having heard and considered the testimony presented on behalf of the Board and Respondent during the course of the administrative hearing, having reviewed the record of this matter consisting of the exhibits submitted by the Board and Respondent, having heard and considered the arguments of counsel, and being otherwise fully advised, hereby enters the following Findings of Fact, Conclusions of Law and Recommended Order to the Board of Professional Counselors and Marriage and Family Therapists:

III.

FINDINGS OF FACT

A. Introduction

1. The Board of Professional Counselors and Marriage and Family Therapists is authorized to regulate the practice of professional counselors and marriage and family therapy in the state of Idaho in accordance with title 54, Chapter 34, Idaho Code.

2. Respondent Charles K. Bunch, Ph.D. is a licensee of the Idaho State Board of Professional Counselors and Marriage and Family Therapists, holding license number LCPC-83 to practice counseling. Dr. Bunch, therefore is subject to the provisions of title 54, Chapter 34 of Idaho Code.

3. The Board of Professional Counselors and Marriage and Family Therapists has jurisdiction in this matter because Dr. Bunch is licensed as a professional counselor.

B. Motion to Dismiss

4. At the conclusion of the State's evidence, counsel for Respondent made a Motion to Dismiss Counts I through V on two grounds: First, that the expert testimony by Mr. Steven Filer was insufficient as a matter of law because his opinion was couched in terms of "may have violated" the standard of care and/or provisions of the American Counseling Association Code of Ethics. Second, counsel moved to dismiss all allegations related to the alleged violations of IDAPA 24.15.01.004.01(Rule 4) because it refers to publication date of 1999. According to the American Counseling Association website, the only available version of the ACA Code of Ethics and Standards of Practice is dated 1995. Respondent moved to dismiss the allegations related to the ACA Code of Ethics and Standards of Practice on two theories, violation of due process and failure to provide sufficient notice.

Subsequent to the hearing, the State of Idaho submitted a brief on August 8, 2005 in which it conceded, for this matter only, that Rule 4 lacks sufficient clarity to continue with Counts I, III and V of the Complaint (issues 1, 3 and 5, supra). Further, the written and oral testimony of Steven Filer on behalf of the State has been withdrawn on the basis that it was related to allegations of the ACA Code of Ethics and Standards of Practice.

This Hearing Officer finds that given the State's concession, for this matter only, that Rule 4 lacks sufficient clarity, the alleged violations of the Idaho Code and Idaho Administrative Code related to Counts I, III and V of the Complaint have been withdrawn, and the Hearing Officer will make no findings as to these allegations.

5. Therefore, the Motion to Dismiss submitted by Respondent is denied without prejudice as moot with regard to Counts I, III and V. The Motion to Dismiss is denied as to Counts II and IV as both counts allege statutory violations for which expert testimony is not required.

C. Burden of Proof

6. The Hearing Officer finds that the Petitioner has the burden of proving the allegations in the Complaint by way of clear and convincing evidence.

D. Count II. Alleged failure to obtain written acknowledgement of information disclosure from Carla Taylor, on behalf of her minor child.

7. At the beginning of treatment of Ms. Taylor's son, Respondent provided to Ms. Taylor an information disclosure in substantially the same form as Exhibit N, an exemplar of Dr. Bunch's standard information packet. Both Dr. Bunch and Ms. Taylor testified that Dr. Bunch provided her an information packet at the initial visit.

8. Ms. Taylor testified that she threw the packet away and did not sign the information disclosure.

9. Dr. Bunch testified that although he believed he had a signed copy of the information disclosure, there was none in his file.

10. The information disclosure, as set forth in Exhibit N, complies with Idaho Code § 54-3410A. It provides information to the clients regarding their right to refuse treatment, their responsibility for choosing a provider and treatment modality, and confidentiality. It provides Dr. Bunch's education and training, the therapeutic orientation of his practice, and financial requirements.

11. There was no evidence presented on behalf of Petitioner regarding the sufficiency of lack thereof of the information disclosure packet.

12. Dr. Bunch did not receive an acknowledgment in writing by the client, and did not execute an acknowledgment in writing that the client had received the information disclosure.

E. **Count IV.** Alleged failure to obtain a written acknowledgement of information disclosure from Mr. And Mrs. Schreffler at the commencement of treatment.

13. The testimony by Dr. Bunch and Fred Schreffler was undisputed that Dr. Bunch was counseling the marriage of Fred Schreffler and Ellen Schreffler.

14. Dr. Bunch and Fred Schreffler testified that Dr. Bunch provided an information disclosure to Fred Schreffler in substantially the same form as Exhibit Nat the beginning of treatment.

15. Fred Schreffler testified that he signed the information disclosure, and Dr. Bunch testified that he initialed the disclosure.

16. Ellen Schreffler was provided an information disclosure packet in substantially the same form as Exhibit N by Dr. Bunch at her initial visit and at a later visit. There was no testimony from Ms. Schreffler whether she signed the information package. Dr. Bunch testified that he did not believe Ms. Schreffler signed the information packet and Ms. Rowland testified that there was no information package in the file.

17. There was no evidence presented on behalf of Petitioner regarding the sufficiency of lack thereof of the information disclosure packet.

18. The information disclosure, as set forth in Exhibit N, complies with Idaho Code § 54-3410A. It provides information to the clients regarding their right to refuse treatment, their responsibility for choosing a provider and treatment modality, and confidentiality. It provides Dr. Bunch's education and training, the therapeutic orientation of his practice, and financial requirements.

IV.

CONCLUSIONS OF LAW

19. Pursuant to Idaho Code Title 54 Chapter 34 and Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists as promulgated and published at IDAPA

24.15.01 *et seq.*, the Board may revoke or suspend the license of a counselor or therapist or take other appropriate disciplinary action in its discretion.

20. As to Count II, Respondent complied with Idaho Code § 54-3410A by providing at beginning of treatment an information disclosure packet to Karla Taylor, on behalf of her minor child.

21. As to Count II, Respondent violated Idaho Code § 54-3410A by not obtaining a signature of acknowledgment on the information disclosure packet by Karla Taylor, on behalf of her minor child, and not acknowledging his own signature.

22. As to Count IV, Respondent complied with Idaho Code § 54-3410A by providing at beginning of treatment an information disclosure packet to Fred Schreffler and Ellen Schreffler.

23. As to Count IV, Respondent complied with Idaho Code § 54-3410A by obtaining Fred Schreffler's signature, and acknowledging on his own behalf that he provided the information disclosure packet.

24. As to Count IV, Respondent violated Idaho Code § 54-3410A by not obtaining a signature of acknowledgment on the information disclosure packet by Ellen Schreffler, and not acknowledging his own signature.

25. As to Count IV, the Hearing Officer specifically makes a conclusion of law that in order for a counselor to counsel a marriage, as opposed to an individual, the counselor must obtain the consent of both parties to the marriage.


26. That Counts I, III and V of the Complaint are dismissed due to the withdrawal of these complaints by State of Idaho.

V.

RECOMMENDED ORDER

1. It is recommended that the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists issue disciplinary sanctions, if any, in its discretion, against Respondent, based upon the violations enumerated and pursuant to those procedures as established by the Idaho Counselors and Therapists Act.

DATED this 31st day of March 2006.

By: 
MICHAEL J. ELIA
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of March, 2006, I served a true and correct copy of the foregoing upon each of the following individuals by causing the same to be delivered by the method and to the addresses indicated below:

Stephanie N. Guyon
Deputy Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010

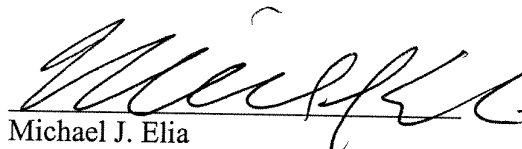
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☐ Hand-Delivered
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